

U.S. PTO Customer No. 25280

Case# 5720

REMARKS35 USC §103 (a) Rejections:

Claims 1, 2, 8-12, 18-22, 28-32 and 38-40 were rejected under 35 USC §103 (a) as being unpatentable over Wang et al. (USPN 6,953,299) in view of Kasprzak (USPN 4,685,930) and Froehlich et al. (USPN 3,910,848) and further in view of Moore et al. (USPN 4,908,149).

The Examiner submits that Wang teaches methods of cleaning textiles, specifically carpets, by using a cleaning machine. The composition taught by Wang comprises less than 99% water (col. 14, lines 63-64), surfactants (col. 15, line 64 to col. 20, line 17), 0.1% to 25% C₁₋₄ alkanols such as methanol, ethanol, and propanol, 0.1% to 25% polyalkylene glycols (col. 20, lines 21-31), thickeners chosen from polyacrylic acid, xanthum gum, and clays (col. 21, lines 9-12), film forming polymers chosen from starch, polyvinyl alcohol, and polyacrylic acid (col. 22, lines 65-67; col. 23, lines 1-2), dipropylene glycol (col. 23, line 23) which the Examiner contends meets the claimed limitation of polyoxyalkylene material as claimed by Applicants, and 0.01% to 5% stain resist agents chosen from homopolymers and copolymers of methacrylic acid (col. 23, lines 62-64; col. 24, lines 2-3). Wang further teaches the use of aerosol containers for dispensing the cleaning composition. Wang fails to teach the concentrations of thickeners, film forming polymers, and dipropylene glycol. Wang further fails to teach urea formaldehyde polymers of the claimed particle size and oil absorption values, the surface tension values of 40 dynes per centimeter, and the treatment of upholstery or fabric.

The Examiner relies on secondary references of Kasprzak and Froehlich to teach urea formaldehyde polymer particles having a certain size and oil absorption value (Froehlich: col. 1, lines 39-41); the concentration of thickeners, film forming polymers, and dipropylene glycol (col. 4, line 68; col. 5, lines 1-5; col. 3, lines 55-57); and the treatment of upholstery and fabric (col. 1, lines 39-41).

The Examiner further relies on yet another secondary reference of Moore et al. to teach cleaning compositions comprising water containing sufficient surfactant to lower the surface tension to below 40 dynes per centimeter (col. 2, lines 64-68), C₁₋₄ aliphatic alcohols (col. 6, lines 38-40), and urea formaldehyde particle size (col. 8, lines 14-32).

U.S. PTO Customer No. 25280

Case# 5720

Thus, the Examiner contends that it would have been obvious to one of ordinary skill in the art to apply the compositions taught by Wang to treat upholstery and fabric because Kasprzak teaches the treatment of upholstery and fabric with similar compositions. It would also have been obvious to one of ordinary skill in the art to optimize the concentrations of polyacrylic acid or starch and dipropylene glycol in the compositions taught by Wang to the percentages taught by Kasprzak because Kasprzak teaches that these percentages are effective in removing soils from carpets. Furthermore, the Examiner contends that it would have been obvious to one having ordinary skill in the art to optimize the surface tension of water with surfactant in the compositions taught by Wang to the values taught by Moore because Moore teaches that these values result in improved cleaning properties.

Applicants have amended each independent claim to replace "comprising of" with "consisting essentially of" in association with the components of the cleaning composition. It has already been established that Wang et al. fail to teach absorbent particles in their cleaning composition. While Kasprzak and Froehlich teach the use of some absorbent particles, Kasprzak also requires the use of a siloxane compound in its cleaning composition (see discussion presented by Applicants in specification on page 7, lines 8-14). Froehlich et al. requires the use of a halogenated solvent and antistatic agents in their cleaning composition (see discussion presented by Applicants in specification on page 6, lines 17-23). With regard to Moore et al., this reference requires the use of a sulfonated, colorless dye site blocker in the cleaning composition (see discussion presented by Applicants in specification on page 5, lines 5-8). The claims of the instant invention do not include the incorporation of siloxanes, halogenated solvents, antistatic agents, or sulfonated colorless dye site blockers.

As such, Applicants respectfully submit that there is no motivation provided by the Examiner to combine these four references, eliminate required components taught by those references, and create the cleaning composition of the instant claims. The Examiner has not shown that some objection teaching or suggestion in the applied prior art, or knowledge generally available in the art, would have led one of ordinary skill in the art to combine the references and arrive at the claimed invention. *Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc.*, 745 F.3d 1568, 1573, 37 USPQ2d 1626, 1629 (Fed. Cir. 1996). To the contrary, the only place one can find such a suggestion is in the Applicants' specification. Thus, Applicants respectfully submit that the Examiner has relied upon impermissible hindsight reconstruction in making the determination of obviousness. *In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed Cir. 1992) states

U.S. PTO Customer No. 25280

Case# 5720

that "It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." Further case law states that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. See *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). Applicants respectfully believe that the Examiner has chosen the available limitations taught by the combination of four references – Wang et al. in view of Kasprzak and Froehlich and further in view of Moore et al. – and asserted the theory that all other limitations are merely an obvious variation of those references. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) states that "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure." Applicants respectfully submit that there is no reasonable expectation of success in making the claimed combination from the teachings of the prior art when the prior art teachings include many other required components in their cleaning compositions. What motivation is provided to remove those components and arrive at the cleaning composition of the instant claims? Applicants respectfully submit that there is none.

Thus, Applicants respectfully contend that this rejection, therefore, is improper and respectfully requests that the rejection of claims 1, 2, 8-12, 18-22, 28-32 and 38-40 over Wang et al. in view of Kasprzak and Froehlich et al. and further in view of Moore et al., be withdrawn.

Claims 3-7, 13-17, 23-27, 33-37 and 41-43 were rejected under 35 USC §103 (a) as being unpatentable over Wang et al. (USPN 6,953,299) in view of Kasprzak (USPN 4,685,930) and Froehlich et al. (USPN 3,910,848) and of Moore et al. (USPN 4,908,149) and further in view of shoplet.com (<http://www.blochem.ucl.ac.uk/bsm/enzymes/ec3/ec01/ec0074/index.html>) and Hoxie (USPN 3,184,781).

The Examiner submits that the prior art of Wang, Kasprzak, Froehlich, and Moore fail to teach dispensing containers with removable caps, synthetic applicator tips made of bristles or foam with openings and volumes of less than 1 gallon. The secondary reference of shoplet.com is included to demonstrate that carpet cleaners are currently on the market and are conventionally sold in aerosol cans with detachable caps, nozzles with openings, and canisters with a volume of less than 1 gallon. Furthermore, Hoxie is cited by the Examiner to teach attachable heads for aerosol cans (col. 1, lines 23-25) which have bristles and sponge foams (col. 3, lines 6-73).

U.S. PTO Customer No. 25280

Case# 5720

Thus, the Examiner contends that it would have been obvious to one of ordinary skill in the art to incorporate the cleaning solutions taught by Wang, Kasprzak, Froehlich and Moore into the canisters demonstrated by shoplet.com with the cleaning heads of Hoxie attached for dispensing since this is conventionally known in the art to be an effective method for packaging.

Applicants rely on the discussion presented above with regard to the impropriety of the rejection based on the combination of Wang et al., Kasprzak et al., Froehlich, and Moore et al. Applicants respectfully submit that the additional teachings provided by shoplet.com and Hoxie fail to provide any additional motivation for combining the references and arriving at the invention recited in the Instant claims. Thus, Applicants respectfully submit that the Examiner has invoked hindsight reconstruction to improperly reject claims 3-7, 13-17, 23-27, 33-37 and 41-43. As such, Applicants respectfully contend that this rejection, therefore, is improper and respectfully request that the rejection of claims 3-7, 13-17, 23-27, 33-37 and 41-43 over Wang et al. in view of Kasprzak and Froehlich et al., further in view of Moore et al., and further in view of shoplet.com and Hoxie, be withdrawn.

Conclusion:


For the reasons set forth above, it is respectfully submitted that all claims now stand in condition for allowance. Should any issues remain after consideration of these Amendments and accompanying Remarks, the Examiner is invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

In the event that there are additional fees associated with the submission of these papers, authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

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